

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSE ALBERT CASTRO,	:	No. 4:15-CV-1833
	:	
Petitioner,	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
ROBERT GILMORE, <i>et al.</i> ,	:	
	:	
Respondents.	:	

**ORDER**

**NOVEMBER 28, 2017**

Before the Court for disposition is a Report and Recommendation filed by Magistrate Judge Martin C. Carlson on September 20, 2017.<sup>1</sup> In this Report, Magistrate Judge Carlson recommended that (1) the instant Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 be denied; (2) a certificate of appealability should not issue; and (3) the Clerk be directed to close this case.<sup>2</sup> No objections to this Report and Recommendation have since been filed.

Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and ... submit to a judge of the court proposed findings of fact and recommendations.”<sup>3</sup> Once filed, this Report and Recommendation is

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<sup>1</sup> ECF No. 18.

<sup>2</sup> *Id.*

<sup>3</sup> 28 U.S.C. § 636(b)(1)(B).

disseminated to the parties in the case who then have the opportunity to file written objections.<sup>4</sup> When objections are timely filed, the District Court must conduct a *de novo* review of those portions of the report to which objections are made.<sup>5</sup>

Although the standard of review for objections is *de novo*, the extent of review lies within the discretion of the District Court, and the court may otherwise rely on the recommendations of the magistrate judge to the extent it deems proper.<sup>6</sup>

For portions of the Report and Recommendation to which no objection is made, a court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”<sup>7</sup>

Regardless of whether timely objections are made by a party, the District Court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.<sup>8</sup>

Following a *de novo* review of the record, I am satisfied that the Report and Recommendation contains no error. In the interests of judicial economy, I will not rehash Magistrate Judge Carlson’s sound reasoning and legal citation. The Court

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<sup>4</sup> 28 U.S.C. § 636(b)(1).

<sup>5</sup> 28 U.S.C. § 636(b)(1); *Brown v. Astrue*, 649 F.3d 193, 195 (3d Cir. 2011).

<sup>6</sup> *Rieder v. Apfel*, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing *United States v. Raddatz*, 447 U.S. 667, 676 (1980)).

<sup>7</sup> Fed.R.Civ.P. 72(b), advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)) (explaining that judges should give some review to every report and recommendation).

<sup>8</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

is in full agreement that Petitioner's claims are either procedurally defaulted or without merit.

**AND NOW**, therefore, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson's Report and Recommendation (ECF No. 18) is **ADOPTED IN ITS ENTIRETY**;
2. The instant Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 is **DENIED**;
3. The Clerk of Courts is directed to close this case.
4. A Certificate of Appealability will not issue.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann  
United States District Judge